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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

2002 SEP 24 P 12:47

WILLIAM A. MUNDELL
CHAIRMAN

SEP 24 2002

JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

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AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF THE
ARIZONA ELECTRIC DIVISION OF CITIZENS
COMMUNICATIONS COMPANY TO CHANGE THE
CURRENT PURCHASED POWER AND FUEL
ADJUSTMENT CLAUSE RATE, TO ESTABLISH A
NEW PURCHASED POWER AND FUEL
ADJUSTMENT CLAUSE BANK, AND TO
REQUEST APPROVED GUIDELINES FOR THE
RECOVERY OF COSTS INCURRED IN
CONNECTION WITH ENERGY RISK
MANAGEMENT INITIATIVES.

DOCKET NO. E-01032C-00-0751

**MOTION TO AMEND
PROCEDURAL DATES AND
CONTINUE HEARING**

On September 28, 2000, the Arizona Electric Division of Citizens Communications Company ("Citizens") filed with the Arizona Corporation Commission ("Commission") an application to change the current purchased power and fuel adjustment clause rate ("PPFAC"), to establish a new PPFAC bank, and to begin accruing carrying charges and to request approved guidelines for the recovery of costs incurred in connection with energy risk management initiatives.

The hearing in this case was previously scheduled to begin on March 25, 2002. The hearing was delayed in order to resolve issues surrounding Citizens' counsel in this proceeding. (See, April 18, 2002 Procedural Order; July 16, 2002 Procedural Order; and August 23, 2002 Amended Procedural Order).

As a result of both the delay and the nature of the disputes regarding Citizens' counsel, it became obvious that additional discovery and Supplemental testimony would be necessary to complete the record in this proceeding. Based on Citizens' representations, Staff anticipated that the additional discovery would yield a relatively small number of documents. On August 26, 2002, a telephonic Procedural Conference was held to discuss dates for the proceeding. A Procedural Order was issued on August 27, 2002, describing a series of dates for discovery and establishing dates for

1 supplemental testimony and the hearing. The Procedural Order directed the Parties to make good
2 faith efforts to follow the procedural schedule, while noting that the dates may be modified for good
3 cause shown upon filing of an appropriate Motion.

4 Unfortunately, the discovery effort has not proceeded as anticipated, and Staff is forced to
5 submit this Motion seeking amendment to the Procedural Order. There have been two primary
6 causes for the failure of the schedule. The major cause is the fact that, contrary to expectations, a
7 significant amount of information had not previously been provided. Citizens' Response to the First
8 Set of Supplemental Data Requests submitted on behalf of Mohave and Santa Cruz Counties
9 ("Counties") comprised some four boxes of documents. Staff's best estimate is that this response
10 included approximately 13,000 documents. Many of those documents are relevant to the issues in
11 this proceeding. In addition, a number of documents responsive to that Set of Data Requests, as well
12 as certain data requests submitted by Intervenor Marshall Magruder, were not submitted as a result of
13 confidentiality claims asserted by Citizens on behalf of Arizona Public Service Company ("APS").
14 Finally, there are a large number of documents that Citizens claims to be too voluminous to produce.
15 Citizens' estimates have been as high as 90,000 documents.

16 These two factors have impacted Staff's ability to achieve the proposed procedural dates in a
17 variety of ways. First, Staff had anticipated being able to complete review of documents and
18 formulation of a second set of data requests within a week. Instead, the review process was extended,
19 and the first Staff questions generated by these documents were not completed until September 20,
20 2002. Of course, the magnitude and relevance of the documents resulted in a greater than initially
21 anticipated number of data requests being issued in the next set by Staff (Staff's Fifteenth Set of Data
22 Requests). Staff anticipates that it will need to make data requests beyond the Fifteenth set because
23 of the volume and scope of documents only recently disclosed and the new issues those documents
24 raise. Staff also anticipates the need to follow up on responses by Citizens to the Fifteenth Set of
25 Data Requests. The need for future data requests beyond the Fifteenth set was not anticipated prior
26 to now because Staff did not anticipate, nor was there any indication of the sheer volume of
27 documents yet to be disclosed by Citizens. In addition, Staff anticipates the need for future discovery
28 regarding documents not disclosed to this point because of confidentiality claims by Citizens and/or


1 APS. And, of course, having not received the documents claimed to be confidential due to APS
2 confidentiality claims, Staff anticipates the likelihood of some follow-up discovery on those
3 documents.

4 In addition to the volume of discovery, these recent disclosures (and continued non-
5 disclosures) by Citizens bring forth new questions and issues pertinent to this case. Staff believes
6 these issues must now be addressed in supplemental testimony. Accordingly, the resultant testimony
7 is likely to be more lengthy and detailed than previously anticipated.

8 Based on these unanticipated results, Staff now believes the agreed-upon schedule was
9 unrealistic. Assuming that complete responses to all outstanding data requests are provided by
10 September 30, 2002, Staff would be able to commit to submission of our Supplemental Testimony on
11 November 12, 2002. However, since it is not clear when responses will be received to the latest
12 Magruder data requests, or the extent of follow-up necessary from the responses to Staff's Fifteenth
13 Set of Data Requests, this is only a tentative proposal. We would suggest an additional Procedural
14 Conference to establish new dates for Citizens' Supplemental Rebuttal Testimony and a Hearing.

15 Staff respectfully requests that the Administrative law Judge issue an Order vacating the
16 Procedural Dates established by the August 27, 2002 Procedural Order and convening a Procedural
17 Conference to establish new dates.

18 RESPECTFULLY SUBMITTED this 24th day of September, 2002.
19

20 
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The original and ten copies of the foregoing filed this 24th day of September, 2002, with:

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